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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Aug 04, 2022

SEAN F. McAVOY, CLERK

10 UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 UNITED STATES OF AMERICA,

Case No.: 2:21-CR-00029-RMP

13 Plaintiff,

Plea Agreement Entered Under  
Federal Rule of Criminal Procedure  
11(c)(1)(C)

14 v.

15 BOBBY CHARLES OWENS,

16 Defendant.

17 Plaintiff United States of America, by and through Vanessa R. Waldref, United  
18 States Attorney the Eastern District of Washington, and David M. Herzog and/or  
19 Alison L. Gregoire, Assistant United States Attorneys for the Eastern District of  
20 Washington, and Defendant Bobby Charles Owens ("Defendant"), both individually  
21 and by and through Defendant's counsel, Federal Defender Andrea George, agree to  
22 the following Plea Agreement.

23 1. Guilty Plea and Maximum Statutory Penalties

24 Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), Defendant agrees  
25 to enter a plea of guilty to an Information Superseding Indictment charging him with  
26 Attempted Child Sex Trafficking, in violation of 18 U.S.C. § 1594(a), a Class A  
27 felony.

28 Defendant understands that the following potential penalties apply:

- a. a term of imprisonment of not less than 10 years and up to a lifetime, because his victim had attained the age of 14 years but not the age of 18 years, pursuant to 18 U.S.C. § 1591(a)(1), (b)(2);
- b. a term of supervised release of not less than 5 years and up to life;
- c. a fine of up to \$250,000;
- d. mandatory registration as a sex offender;
- e. a mandatory special assessment of \$5,000 pursuant to the Justice for Victims of Trafficking Act ("JVTA") of 2015, absent a judicial finding of indigence;
- f. restitution; and
- g. a \$100 special penalty assessment.

Defendant understands that a violation of a condition of supervised release carries an additional penalty of reimprisonment for all or part of the term of supervised release without credit for time previously served on post-release supervision.

## 2. Supervised Release

Defendant understands that if Defendant violates any condition of Defendant's supervised release, the Court may revoke Defendant's term of supervised release, and require Defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, up to the following terms:

- a. 5 years in prison if the offense that resulted in the term of Supervised Release is a class A felony,
- b. 3 years in prison if the offense that resulted in the term of Supervised Release is a class B felony, and/or
- c. 2 years in prison if the offense that resulted in the term of Supervised Release is a class C felony.

1 Accordingly, Defendant understands that if Defendant commits one or more  
2 violations of supervised release, Defendant could serve a total term of incarceration  
3 greater than the maximum sentence authorized by statute for Defendant's offense or  
4 offenses of conviction.

5 3. Rule 11 Nature of the Plea Agreement

6 Defendant acknowledges that this Plea Agreement is entered pursuant to  
7 Federal Rule of Criminal Procedure 11(c)(1)(C) ("Rule 11(c)(1)(C)"). Pursuant to  
8 Rule 11(c)(1)(C), the United States and Defendant agree that the appropriate  
9 disposition of the case is 144 months (12 years) in custody, to be followed by a  
10 lifetime of Supervised Release. The United States and Defendant agree to make those  
11 sentencing recommendations to the Court. Although the United States and Defendant  
12 agree to make these recommendations to the Court pursuant to Rule 11(c)(1)(C),  
13 Defendant acknowledges that no promises of any type have been made to Defendant  
14 with respect to the sentence the Court will ultimately impose.

15 Defendant understands that Defendant may withdraw from this Plea Agreement  
16 if the Court imposes a term of imprisonment of greater than 144 months (12 years) or  
17 indicates its intent to do so. Defendant also understands that the United States may  
18 withdraw from this Plea Agreement if the Court imposes a term of imprisonment of  
19 less than 144 months (12 years) or a term of supervised release of less than  
20 Defendant's lifetime, or indicates its intent to do so.

21 The United States and Defendant acknowledge that the imposition of any fine,  
22 restitution, or conditions of Supervised Release are not part of the Rule 11(c)(1)(C)  
23 nature of this Plea Agreement; that the United States and Defendant are free to make  
24 any recommendations they deem appropriate as to the imposition of fines, restitution,  
25 or conditions of Supervised Release; and that the Court will exercise its discretion in  
26 this regard. The Court's decisions regarding the imposition of fines, restitution, or  
27 conditions of Supervised Release will not provide bases for Defendant to withdraw  
28 Defendant's guilty plea or withdraw from this Rule 11(c)(1)(C) Plea Agreement.

1 Defendant acknowledges that if either the United States or Defendant  
2 successfully withdraws from this Plea Agreement, the Plea Agreement becomes a  
3 nullity, and the United States is no longer bound by any representations within it.

4 4. Sex Offender Registration

5 Defendant understands that by pleading guilty, Defendant will be required to  
6 register as a sex offender upon release from prison as a condition of supervised  
7 release, pursuant to 18 U.S.C. § 3583(d).

8 Defendant also understands that independent of Defendant's term of supervised  
9 release, Defendant will be subject to federal and state sex offender registration  
10 requirements, and that those requirements may apply throughout Defendant's lifetime.

11 Defendant agrees that during the duration of Defendant's registration  
12 requirement, Defendant will keep Defendant's registration current with the state sex  
13 offender registration agency or agencies of any state in which Defendant lives or  
14 resides for more than 72 hours. Defendant agrees that during the duration of  
15 Defendant's registration requirement, Defendant will notify and verify with the state  
16 sex offender registration agency or agencies of any state in which Defendant lives or  
17 resides for more than 72 hours, of changes to Defendant's name, place of residence,  
18 place of employment, education, or religious worship, and any other information  
19 required by such agency or agencies. Defendant understands that Defendant will be  
20 subject to possible federal and state penalties for failure to comply with any such  
21 requirements. Defendant understands that under 18 U.S.C. § 4042(c), notice will be  
22 provided to law enforcement agencies upon Defendant's release from confinement.

23 Defendant shall initially register with the state sex offender registration of the  
24 state of Defendant's release, and shall also register with the state sex offender agency  
25 in any state where defendant resides, is employed, works, or is a student, as directed  
26 by the Probation Officer.

27 Defendant shall provide proof of registration to the Probation Officer within 72  
28 hours of Defendant's release from custody.

1           5.     Potential Immigration Consequences of Guilty Plea

2           If Defendant is not a citizen of the United States, Defendant understands the  
3 following:

- 4           a.     pleading guilty in this case may have immigration consequences;  
5           b.     a broad range of federal crimes may result in Defendant's removal  
6                 from the United States, including the offense to which Defendant  
7                 is pleading guilty;  
8           c.     removal from the United States and other immigration  
9                 consequences are the subject of separate proceedings; and  
10          d.     no one, including Defendant's attorney or the Court, can predict  
11                 with absolute certainty the effect of a federal conviction on  
12                 Defendant's immigration status.

13          Defendant affirms that Defendant is knowingly, intelligently, and voluntarily  
14 pleading guilty as set forth in this Plea Agreement, regardless of any immigration  
15 consequences that Defendant's guilty plea may entail.

16          6.     Waiver of Constitutional Rights

17          Defendant understands that by entering this guilty plea, Defendant is knowingly  
18 and voluntarily waiving certain constitutional rights, including the following:

- 19          a.     the right to a jury trial;  
20          b.     the right to see, hear and question the witnesses;  
21          c.     the right to remain silent at trial;  
22          d.     the right to testify at trial; and  
23          e.     the right to compel witnesses to testify.

24          While Defendant is waiving certain constitutional rights, Defendant understands  
25 that Defendant retains the right to be assisted by an attorney through the sentencing  
26 proceedings in this case and any direct appeal of Defendant's conviction and sentence,  
27 and that an attorney will be appointed at no cost if Defendant cannot afford to hire an  
28 attorney.

1 Defendant understands and agrees that any defense motions currently pending  
2 before the Court are mooted by this Plea Agreement, and Defendant expressly waives  
3 Defendant's right to bring any additional pretrial motions.

4 7. Elements of the Offense

5 The United States and Defendant agree that in order to convict Defendant of  
6 Attempted Child Sex Trafficking, in violation of 18 U.S.C. § 1594(a), the United  
7 States would have to prove the following, beyond a reasonable doubt:

- 8 a. *First*, beginning on or about February 27, 2019, and continuing  
9 through on or about March 28, 2019, within the Eastern District of  
10 Washington, Defendant did knowingly attempt to recruit, entice,  
11 harbor, transport, provide, obtain, advertise, maintain, patronize, or  
12 solicit by any means Minor Victim 1, to engage in a commercial  
13 sex act, and attempt to do so;
- 14 b. *Second*, Defendant knew that Minor Victim 1 had attained the age  
15 of 14 years, but not the age of 18 years, acted in reckless disregard  
16 of Minor Victim 1's age, or had a reasonable opportunity to view  
17 Minor Victim 1;
- 18 c. *Third*, Defendant knew that Minor Victim 1 would be caused to  
19 engage in a commercial sex act;
- 20 d. *Fourth*, Defendant's conduct was in or affecting interstate or  
21 foreign commerce; and
- 22 e. *Fifth*, Defendant took a substantial step in furtherance of the crime  
23 of Child Sex Trafficking, in violation of 18 U.S.C. § 1591(a)(1),  
24 (b)(2).

25 8. Factual Basis and Statement of Facts

26 The United States and Defendant stipulate and agree that the facts set forth  
27 below are accurate; the United States could prove them beyond a reasonable doubt at  
28 trial; and that they constitute an adequate factual basis for Defendant's guilty plea.

1 The United States and Defendant agree that this statement of facts does not  
2 preclude either party from presenting and arguing, for sentencing purposes, additional  
3 facts that are relevant to the Sentencing Guidelines computation or sentencing, unless  
4 otherwise prohibited in this Plea Agreement.

5 Beginning on or about February 27, 2019, and continuing through on or about  
6 March 28, 2019, within the Eastern District of Washington, Defendant used the  
7 messaging capabilities of the online application "Facebook" and the Internet, which is  
8 a means and facility of interstate and foreign commerce, to communicate with minor  
9 victim C.S.

10 In those communications, Defendant attempted to entice and solicit C.S. to  
11 engage in commercial sex acts; namely, to engage in sexual intercourse with  
12 Defendant in exchange for \$100 that Defendant would give C.S.

13 At all times relevant to the Indictment, it was factually true, and Defendant  
14 knew, that C.S. had attained the age of 14 years, but not the age of 18 years.

15 Defendant took a substantial step toward completion of the crime of Child Sex  
16 Trafficking, in violation of 18 U.S.C. § 1591(a)(1), (b)(2), when he met with C.S. in  
17 person for the purpose of engaging in a commercial sex act with her after enticing her  
18 to engage in that commercial sex act using a means and facility of interstate and  
19 foreign commerce.

20 Defendant acknowledges that his offense also included causing a minor to  
21 engage in sexually explicit conduct for the purpose of producing a visual depiction of  
22 such conduct, and knowing distribution of those visual depictions (to himself).  
23 Specifically, Defendant acknowledges that while communicating with C.S. on  
24 Facebook and the Internet, he specifically requested that she take images and videos  
25 of herself that would depict her genitals and pubic area in a lewd and lascivious  
26 manner, including C.S. engaging in sexual contact by touching her own vaginal lips  
27 with her fingers. Defendant knowingly distributed those images to himself, by asking  
28 C.S. to send them to him using Facebook and the Internet, which she did.



1           9.     The United States' Agreements

2           The United States Attorney's Office for the Eastern District of Washington  
3 agrees that at the time of sentencing, the United States will move to dismiss the  
4 Indictment filed on March 16, 2021, which charges Defendant with Child Sex  
5 Trafficking and Attempted Child Sex Trafficking, in violation of 18 U.S.C.  
6 §§ 1591(a)(1), (b)(2), and 1594(a) (Count 1); Production of Child Pornography, in  
7 violation of 18 U.S.C. § 2251(a), (e) (Count 2) and Receipt of Child Pornography, in  
8 violation of 18 U.S.C. § 2252A(a)(2), (b)(1) (Count 3).

9           The United States Attorney's Office for the Eastern District of Washington also  
10 agrees not to bring additional charges against Defendant based on information in its  
11 possession at the time of this Plea Agreement that arise from conduct that is either  
12 charged in the Indictment or identified in discovery produced in this case, unless  
13 Defendant breaches this Plea Agreement before sentencing.

14           10.    United States Sentencing Guidelines Calculations

15           Defendant understands and acknowledges that the United States Sentencing  
16 Guidelines ("U.S.S.G." or "Guidelines") apply and that the Court will determine  
17 Defendant's advisory range at the time of sentencing, pursuant to the Guidelines.

18           a.     Attempted Child Sex Trafficking Offense Level

19           The United States and Defendant agree that the base offense level for  
20 Attempted Child Sex Trafficking, in violation of 18 U.S.C. § 1594(a), is 24. *See*  
21 U.S.S.G. § 2G1.3(a)(4). The United States and Defendant agree that Defendant's base  
22 offense for Attempted Child Sex Trafficking is increased by 2 levels because he used  
23 a computer to persuade a minor to engage in prohibited sexual contact. *See* U.S.S.G.  
24 § 2G1.3(b)(3)(A). The United States and Defendant agree that Defendant's base  
25 offense for Attempted Child Sex Trafficking is increased by another 2 levels because  
26 U.S.S.G. § 2G1.3(a)(4) applies and the offense involved a commercial sex act. *See*  
27 U.S.S.G. § 2G1.3(b)(4)(B). Accordingly, the United States and Defendant agree that  
28 Defendant's offense level for Attempted Child Sex Trafficking is level 28.



1                   b.     Cross Reference: Production of Child Pornography

2             The United States and Defendant agree that pursuant to the cross reference set  
3 forth at U.S.S.G. § 2G1.3(c)(1), Defendant's offense level is determined by U.S.S.G.  
4 § 2G2.1 because his offense level under that Guideline is higher than his offense level  
5 under U.S.S.G. § 2G1.3, and his offense included causing C.S., a minor, to engage in  
6 sexually explicit conduct for the purpose of producing a visual depiction of such  
7 conduct. Accordingly, the United States and Defendant agree that U.S.S.G. § 2G2.1  
8 applies, and that Defendant's Guidelines calculations are the following:

9             The base offense level for Sexual Exploitation of a Minor under U.S.S.G.  
10 § 2G2.1 (commonly referred to as "Child Pornography Production" in this context) is  
11 32. *See* U.S.S.G. § 2G2.1(a).

12            The United States and Defendant agree that Defendant's base offense for  
13 Child Pornography Production is increased by 2 levels because the offense involved a  
14 minor who had attained the age of twelve years but not the age of sixteen years. *See*  
15 U.S.S.G. § 2G2.1(b)(1)(B).

16            The United States and Defendant agree that Defendant's base offense for  
17 Child Pornography Production is increased by 2 levels because the offense involved  
18 sexual contact, arising from Defendant's specific request that C.S. touch her own  
19 vagina with her fingers, which she did. *See* U.S.S.G. § 2G2.1(b)(2)(A).

20            The United States and Defendant agree that Defendant's base offense for Child  
21 Pornography Production is increased by 2 levels because the offense involved  
22 Defendant knowingly engaging in distribution by asking C.S. to send him the videos  
23 and still photographs depicting sexually explicit images, which she did. *See* U.S.S.G.  
24 § 2G2.1(b)(3).

25            The United States and Defendant agree that Defendant's base offense for  
26 Child Pornography Production is increased by 2 levels because the offense involved  
27 Defendant's use of a computer to solicit the participation of C.S. in sexually explicit  
28 conduct. *See* U.S.S.G. § 2G2.1(b)(6)(B)(ii).

1 Accordingly, the United States and Defendant agree that Defendant's offense  
2 level for Child Pornography Production is level 40. Because that level is higher than  
3 level 28, which is Defendant's offense level under Attempted Child Sex Trafficking,  
4 the United States and Defendant agree that the cross reference applies.

5 The United States and Defendant agree that Defendant's offense level under  
6 Chapter 2 of the Guidelines is level 40, prior to any reductions for acceptance of  
7 responsibility under Chapter 3 or any increases under Chapter 4 of the Guidelines.

8 c. Repeat and Dangerous Sex Offender

9 The United States submits that Defendant's offense level is increased by five  
10 levels because Defendant engaged in a pattern of activity involving prohibited sexual  
11 conduct by trafficking or attempting to traffic C.S., and by attempting to produce, and  
12 producing, child pornography, on two or more occasions. *See* U.S.S.G. § 4B1.5(b).

13 Defendant does not affirmatively agree that this enhancement applies, but  
14 agrees not to oppose it if the United States Probation Office includes it in the  
15 Presentence Report ("PSIR") in this case.

16 d. Acceptance of Responsibility

17 The United States will recommend that Defendant receive a three-level  
18 downward adjustment for acceptance of responsibility, pursuant to U.S.S.G.  
19 § 3E1.1(a), (b), if Defendant does the following:

- 20 i. accepts this Plea Agreement;
  - 21 ii. enters a guilty plea at the first Court hearing that takes place  
22 after the United States offers this Plea Agreement;
  - 23 iii. demonstrates recognition and affirmative acceptance of  
24 Defendant's personal responsibility for his criminal conduct;
  - 25 iv. provides complete and accurate information during the  
26 sentencing process; and
  - 27 v. does not commit any obstructive conduct.
- 28

1 Defendant and the United States agree that at its option and on written notice to  
2 Defendant, the United States may elect not to recommend a reduction for acceptance  
3 of responsibility if, prior to the imposition of sentence, Defendant is charged with, or  
4 convicted of, any criminal offense, or tests positive for any controlled substance.

5 e. No Other Agreements

6 The United States and Defendant have no other agreements regarding the  
7 Guidelines or the application of any Guidelines enhancements, departures, or  
8 variances. Defendant understands and acknowledges that the United States is free to  
9 make any sentencing arguments it sees fit, including arguments arising from  
10 Defendant's uncharged conduct, conduct set forth in charges that will be dismissed  
11 pursuant to this Agreement, and Defendant's relevant conduct.

12 f. Criminal History

13 The United States and Defendant have no agreement and make no  
14 representations about Defendant's criminal history category, which will be determined  
15 by the Court after the United States Probation Office prepares and discloses a  
16 Presentence Investigative Report.

17 11. Incarceration

18 Pursuant to Rule 11(c)(1)(C), the United States and Defendant agree that the  
19 appropriate disposition of the case is 144 months (12 years) in custody, to be followed  
20 by a lifetime of Supervised Release. The United States and Defendant agree to make  
21 those sentencing recommendations to the Court, regardless of the Guidelines  
22 calculations made by the United States Probation Office or the Court.

23 12. Supervised Release

24 The United States and Defendant each agree to recommend that the Court  
25 impose a lifetime term of supervised release. Defendant agrees that the Court's  
26 decision regarding the conditions of Defendant's Supervised Release is final and non-  
27 appealable; that is, even if Defendant is unhappy with the conditions of Supervised  
28 Release ordered by the Court, that will not be a basis for Defendant to withdraw

1 Defendant's guilty plea, withdraw from this Plea Agreement, or appeal Defendant's  
2 conviction, sentence, or any term of Supervised Release.

3 The United States and Defendant agree to recommend that in addition to the  
4 standard conditions of supervised release imposed in all cases in this District, the  
5 Court should also impose the following conditions:

- 6 a. The United States Probation Officer may conduct, upon reasonable  
7 suspicion, and with or without notice, a search of Defendant's  
8 person, residences, offices, vehicles, belongings, and areas under  
9 Defendant's exclusive or joint control.
- 10 b. Defendant shall participate and complete such drug testing and  
11 drug treatment programs as the Probation Officer directs.
- 12 c. Defendant shall complete mental health evaluations and treatment,  
13 including taking medications prescribed by the treatment provider.  
14 Defendant shall allow reciprocal release of information between  
15 the Probation Officer and the treatment provider. Defendant shall  
16 contribute to the cost of treatment according to the Defendant's  
17 ability.
- 18 d. Defendant shall report to the Probation Office any and all  
19 electronic communications service accounts, as defined in 18  
20 U.S.C. § 2510(15) used for user communications, dissemination  
21 and/or storage of digital media files (i.e. audio, video, images).  
22 This includes, but is not limited to, email accounts, social media  
23 accounts, and cloud storage accounts. Defendant shall provide  
24 each account identifier and password, and shall report the creation  
25 of new accounts, changes in identifiers and/or passwords, transfer,  
26 suspension and/or deletion of any account within 5 days of such  
27 action. Failure to provide accurate account information may be  
28 grounds for revocation. The Probation Office is permitted to

1 access and search any accounts using Defendant's credentials  
2 pursuant to this condition only when reasonable suspicion exists  
3 that Defendant has violated a condition of Defendant's supervision  
4 and that the accounts to be searched contain evidence of this  
5 violation.

6 13. Criminal Fine

7 The United States and Defendant may make any recommendation concerning  
8 the imposition of a criminal fine. Defendant acknowledges that the Court's decision  
9 regarding a fine is final and non-appealable; that is, even if Defendant is unhappy with  
10 a fine ordered by the Court, that will not be a basis for Defendant to withdraw  
11 Defendant's guilty plea, withdraw from this Plea Agreement, or appeal Defendant's  
12 conviction, sentence, or fine.

13 14. Mandatory Special Penalty Assessment

14 Defendant agrees to pay the \$100 mandatory special penalty assessment to the  
15 Clerk of Court for the Eastern District of Washington, pursuant to 18 U.S.C. § 3013.

16 15. Restitution

17 The United States and Defendant agree that restitution is appropriate and  
18 mandatory, without regard to Defendant's economic situation, to identifiable victims  
19 who have suffered physical injury or pecuniary loss, pursuant to 18 U.S.C. §§ 3663A,  
20 3664. Pursuant to 18 U.S.C. § 3663(a)(3), Defendant voluntarily agrees to pay  
21 restitution for all losses caused by Defendant's individual conduct, in exchange for the  
22 United States not bringing additional potential charges, regardless of whether counts  
23 associated with such losses will be dismissed as part of this Plea Agreement. With  
24 respect to restitution, the United States and Defendant agree to the following:

25 a. Restitution Amount and Interest

26 The United States and Defendant stipulate and agree that, pursuant to 18 U.S.C.  
27 §§ 3663, 3663A, and 3664, the Court should order restitution to C.S. in an amount  
28 that C.S. can document, and that any interest on this restitution amount, if any, should

1 be waived. Prior to the sentencing hearing, the United States anticipates obtaining  
2 from C.S. any relevant documentation regarding restitution and the United States and  
3 Defendant will work together to resolve the restitution amount to the extent possible.

4 b. Payments

5 To the extent restitution is ordered, the United States and Defendant agree that  
6 the Court will set a restitution payment schedule based on Defendant's financial  
7 circumstances. 18 U.S.C. § 3664(f)(2), (3)(A).

8 Regardless, Defendant agrees to pay not less than 10% of Defendant's net  
9 monthly income towards Defendant's restitution obligations.

10 c. Treasury Offset Program and Collection

11 Defendant understands the Treasury Offset Program ("TOP") collects  
12 delinquent debts owed to federal agencies. If applicable, the TOP may take part or all  
13 of Defendant's federal tax refund, federal retirement benefits, or other federal benefits  
14 and apply these monies to Defendant's restitution obligations. 26 U.S.C. § 6402(d);  
15 31 U.S.C. § 3720A; 31 U.S.C. § 3716.

16 Defendant understands that the United States may, notwithstanding the Court-  
17 imposed payment schedule, pursue other avenues to ensure the restitution obligation is  
18 satisfied, including, but not limited to, garnishment of available funds, wages, or  
19 assets. 18 U.S.C. §§ 3572, 3613, 3664(m).

20 Nothing in this acknowledgment shall be construed to limit Defendant's ability  
21 to assert any specifically identified exemptions as provided by law, except as set forth  
22 in this Plea Agreement.

23 Until Defendant's fine and restitution obligations are paid in full, Defendant  
24 agrees fully to disclose all assets in which Defendant has any interest or over which  
25 Defendant exercises control, directly or indirectly, including those held by a spouse,  
26 nominee or third party. Until Defendant's fine and restitution obligations are paid in  
27 full, Defendant agrees to provide waivers, consents, or releases requested by the U.S.  
28 Attorney's Office to access records to verify the financial information.

1                   d.     Notifications and Waivers

2             Defendant agrees to notify the Court and the United States of any material  
3 change in Defendant's economic circumstances (e.g., inheritances, monetary gifts,  
4 changed employment, or income increases) that might affect Defendant's ability to  
5 pay restitution. 18 U.S.C. § 3664(k). Defendant agrees to notify the United States of  
6 any address change within 30 days of that change. 18 U.S.C. § 3612(b)(1)(F). These  
7 obligations cease when Defendant's restitution is paid in full.

8             Defendant acknowledges that the Court's decision regarding restitution is final  
9 and non-appealable; that is, even if Defendant is unhappy with the amount of  
10 restitution ordered by the Court, that will not be a basis for Defendant to withdraw  
11 Defendant's guilty plea, withdraw from this Plea Agreement, or appeal Defendant's  
12 conviction, sentence, or restitution order.

13           16.   Payments While Incarcerated

14           If Defendant lacks the financial resources to pay the monetary obligations  
15 imposed by the Court, Defendant agrees to earn money to pay toward these  
16 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility  
17 Program.

18           17.   Additional Violations of Law Can Void Plea Agreement

19           The United States and Defendant agree that the United States may, at its option  
20 and upon written notice to the Defendant, withdraw from this Plea Agreement or  
21 modify its sentencing recommendation if, prior to the imposition of sentence,  
22 Defendant is charged with or convicted of any criminal offense or tests positive for  
23 any controlled substance.

24           18.   Waiver of Appeal Rights

25           In return for the concessions that the United States has made in this Plea  
26 Agreement, Defendant agrees to waive Defendant's right to appeal Defendant's  
27 conviction and sentence if the Court imposes a term of imprisonment consistent with  
28 the terms of this Rule 11(c)(1)(C) Plea Agreement.



1 If the Court indicates its intent to impose a sentence above the Rule 11(c)(1)(C)  
2 terms of this Agreement and Defendant chooses *not* to withdraw, then:

- 3 a. Defendant may appeal only Defendant's sentence, but not  
4 Defendant's conviction;  
5 b. Defendant may appeal Defendant's sentence only if it exceeds the  
6 high end of the Guidelines range determined by the Court; and  
7 c. Defendant may appeal only the substantive reasonableness of  
8 Defendant's sentence.

9 Defendant expressly waives Defendant's right to appeal any restitution order or  
10 fine imposed by the Court.

11 Defendant expressly waives Defendant's right to file any post-conviction  
12 motion attacking Defendant's conviction and sentence, including a motion pursuant to  
13 28 U.S.C. § 2255, except one based on ineffective assistance of counsel arising from  
14 information not now known by Defendant and which, in the exercise of due diligence,  
15 Defendant could not know by the time the Court imposes sentence.

16 Nothing in this Plea Agreement shall preclude the United States from opposing  
17 any post-conviction motion for a reduction of sentence or other attack upon the  
18 conviction or sentence, including, but not limited to, writ of habeas corpus  
19 proceedings brought pursuant to 28 U.S.C. § 2255.

20 19. Compassionate Release

21 In consideration for the benefits Defendant is receiving under the terms of this  
22 Plea Agreement, Defendant expressly waives Defendant's right to bring any motion  
23 for Compassionate Release other than a motion arising from one of the specific bases  
24 set forth in this paragraph of this Plea Agreement.

25 The United States retains the right to oppose, on any basis, any motion  
26 Defendant files for Compassionate Release.

27 The only bases on which Defendant may file a motion for Compassionate  
28 Release in the Eastern District of Washington are the following:

1           a.     Medical Condition of Defendant.

- 2           i.     Defendant is suffering from a terminal illness (i.e., a serious  
3                   and advanced illness with an end of life trajectory). A  
4                   specific prognosis of life expectancy (i.e., a probability of  
5                   death within a specific time period) is not required.  
6                   Examples include metastatic solid-tumor cancer,  
7                   amyotrophic lateral sclerosis (ALS), end-stage organ  
8                   disease, and advanced dementia; or  
9           ii.    Defendant is suffering from a serious physical or medical  
10                  condition, a serious functional or cognitive impairment, or  
11                  deteriorating physical or mental health because of the aging  
12                  process that substantially diminishes the ability of the  
13                  defendant to provide self-care within the environment of a  
14                  correctional facility and from which Defendant is not  
15                  expected to recover.

16           b.     Age of Defendant.

- 17           i.     Defendant is at least 65 years old, is experiencing a serious  
18                  deterioration in physical or mental health because of the  
19                  aging process; and has served at least 10 years or 75 percent  
20                  of Defendant's term of imprisonment, whichever is less; or  
21           ii.    Defendant is at least 70 years old and has served at least 30  
22                  years in prison pursuant to a sentence imposed under 18  
23                  U.S.C. § 3559(c) for the offense or offenses for which  
24                  Defendant is imprisoned.

25           c.     Family Circumstances.

- 26           i.     The caregiver of Defendant's minor child/children has died  
27                  or become incapacitated, and Defendant is the only available  
28                  caregiver for Defendant's minor child/children; or

1                   ii.       Defendant's spouse or registered partner has become  
2                               incapacitated, and Defendant is the only available caregiver  
3                               for Defendant's spouse or registered partner.

4           d.       Subsequent Reduction to Mandatory Sentence.

5                   i.       Defendant pleaded guilty to an offense which, on the date of  
6                               Defendant's guilty plea, carried a mandatory minimum  
7                               sentence; and

8                   ii.       after the entry of judgment, the length of the mandatory  
9                               minimum sentence for Defendant's offense of conviction  
10                              was reduced by a change in the law; and

11                  iii.       the application of the reduced mandatory minimum sentence  
12                              would result in Defendant receiving a lower overall  
13                              sentence.

14           e.       Ineffective Assistance of Counsel.

15                   i.       Defendant seeks Compassionate Release based on a claim of  
16                              ineffective assistance of counsel arising from information  
17                              that Defendant both

18                              1.       did not know at the time of his guilty plea, and

19                              2.       could not have known, in the exercise of due  
20                              diligence, at the time the Court imposed sentence.

21       20.   Withdrawal or Vacatur of Defendant's Plea

22       Should Defendant successfully move to withdraw from this Plea Agreement or  
23       should Defendant's conviction be set aside, vacated, reversed, or dismissed under any  
24       circumstance, then:

25                   a.       this Plea Agreement shall become null and void;

26                   b.       the United States may prosecute Defendant on all available  
27                              charges;  
28

- 1           c.     The United States may reinstate any counts that have been  
2               dismissed, have been superseded by the filing of another charging  
3               instrument, or were not charged because of this Plea Agreement;  
4               and  
5           d.     the United States may file any new charges that would otherwise  
6               be barred by this Plea Agreement.

7           The decision to pursue any or all of these options is solely in the discretion of  
8     the United States Attorney's Office.

9           Defendant agrees to waive any objections, motions, and/or defenses Defendant  
10     might have to the United States' decisions to seek, reinstate, or reinitiate charges if a  
11     count of conviction is withdrawn, set aside, vacated, reversed, or dismissed, including  
12     any claim that the United States has violated Double Jeopardy.

13          Defendant agrees not to raise any objections based on the passage of time,  
14     including but not limited to, alleged violations of any statutes of limitation or any  
15     objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth  
16     Amendment.

17          21.   Integration Clause

18          The United States and Defendant acknowledge that this document constitutes  
19     the entire Plea Agreement between the United States and Defendant, and no other  
20     promises, agreements, or conditions exist between the United States and Defendant  
21     concerning the resolution of the case.

22          This Plea Agreement is binding only on the United States Attorney's Office for  
23     the Eastern District of Washington, and cannot bind other federal, state, or local  
24     authorities.

25          The United States and Defendant agree that this Agreement cannot be modified  
26     except in a writing that is signed by the United States and Defendant.

Approvals and Signatures

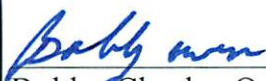
Agreed and submitted on behalf of the United States Attorney's Office for the Eastern District of Washington.

Vanessa R. Waldref  
United States Attorney

  
\_\_\_\_\_  
David M. Herzog or Alison L. Gregoire  
Assistant United States Attorney

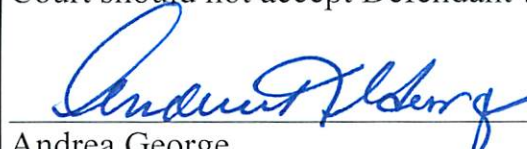
August 4, 2022  
Date

I have read this Plea Agreement and I have carefully reviewed and discussed every part of this Plea Agreement with my attorney. I understand the terms of this Plea Agreement. I enter into this Plea Agreement knowingly, intelligently, and voluntarily. I have consulted with my attorney about my rights, I understand those rights, and I am satisfied with the representation of my attorney in this case. No other promises or inducements have been made to me, other than those contained in this Plea Agreement. No one has threatened or forced me in any way to enter into this Plea Agreement. I agree to plead guilty because I am guilty.

  
\_\_\_\_\_  
Bobby Charles Owens  
Defendant

8-4-22  
Date

I have read the Plea Agreement and have discussed the contents of the agreement with my client. The Plea Agreement accurately and completely sets forth the entirety of the agreement between the parties. I concur in my client's decision to plead guilty as set forth in the Plea Agreement. There is no legal reason why the Court should not accept Defendant's guilty plea.

  
\_\_\_\_\_  
Andrea George  
Attorney for Defendant

Aug. 4, 2022  
Date